IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1917 OF 2005

Shri Laxman Gundappa Apradh .. Petitioner
V/s.
Ramchandra Gundappa Apradh & Ors. .. Respondents

Mr. S.R. Ganbawale for the Petitioner
None present for the Respondents

CORAM : B.H. MARLAPALLE, J.
DATED : 03.05.2005

P.C.:-

1. Heard the learned counsel for the Petitioner. Perusal of the Plaint in RCS No. 96/1995 shows that the main relief in the Suit is for setting aside the decree passed by the learned Civil Judge Junior Division, Ichalkaranji in RCS No. 305/1978 and by way of rejoinder application at Exhibit 71 filed under Order 8 Rule 9 of the Civil Procedure Code, the Petitioner claim further relief of declaration and partition in respect of another property, which is not a subject matter of the Decree passed in RCS No. 305/1978. In above, the application at Exhibit 71 was moved on or about 27.3.2003, i.e. after about 8 years and, therefore, the learned Judge of the Trial Court was of the view that the Application was beyond the scope of Order 8 Rule 9 of the Civil Procedure Code.

2. In any case rejection of the Rejoinder application does not come in the way of the Petitioner from filing an independent Suit for the relief sought to be claimed by rejoinder application. The Petition, is, therefore rejected summarily.

(B.H. MARLAPALLE, J.)